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Security Council

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Letter dated 27 February 2002 from the Secretary-General to the President of the Security Council

I have the honour to convey the attached communication, dated 20 February 2002, from the Director General of the International Atomic Energy Agency (see annex).

I should be grateful if you would bring it to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

02-26689 (E) 010302

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Annex

Letter dated 20 February 2002 from the Director General of the International Atomic Energy Agency addressed to the Secretary-General

In his statement of 4 November 1994 (S/PRST/1994/64), the President of the Security Council requested that the International Atomic Energy Agency (IAEA) continue to report to the Council on the implementation of the Safeguards Agreement with the Democratic People's Republic of Korea. I last wrote to you on this subject on 2 February 2001. As a follow-up to that letter, I now enclose a copy of my report (GC(45)/26 of 6 August 2001) submitted to the General Conference of IAEA at its forty-fifth regular session, and of resolution GC(45)/RES/16 adopted by the Conference on 21 September 2001.

Since my letter of 2 February 2001, IAEA has maintained a continuous inspector presence in Nyongbyon to monitor the freeze of the Democratic People's Republic of Korea's graphite moderated reactors and related facilities foreseen in the Agreed Framework of October 1994 between the Democratic People's Republic of Korea and the United States of America. The Democratic People's Republic of Korea continues to accept IAEA verification activities solely within the context of the Agreed Framework and not under the Safeguards Agreement. That Agreement is binding and remains in force.

The IAEA Safeguards Implementation Report for 2000, issued in May 2001, pointed out the continuing inability of IAEA to verify the correctness and completeness of the Democratic People's Republic of Korea's initial declaration of nuclear material and hence its inability to conclude that there has been no diversion of nuclear material in that country.

In May 2001, IAEA proposed concrete steps to be taken towards the verification of the initial declaration and expressed its readiness to start the relevant activities as early as possible. At a technical meeting in November 2001 the Democratic People's Republic of Korea did not agree to begin implementing the Agency's concrete proposals for the verification of the correctness and completeness of its initial declaration, citing the delay in implementation of the Agreed Framework between the United States and the Democratic People's Republic of Korea as the principal reason for declining. It should be kept in mind that the work required to verify that all nuclear materials subject to safeguards in the Democratic People's Republic of Korea had been declared to IAEA could take 3 to 4 years to complete with full cooperation on the part of the Democratic People's Republic of Korea.

The IAEA General Conference, in September 2001, adopted resolution GC(45)/RES/16, in which it once more expressed deep concern over the continuing non-compliance of the Democratic People's Republic of Korea with its Safeguards Agreement. The General Conference again noted that IAEA continues to be unable to verify the correctness and completeness of the initial declaration of nuclear material made by the Democratic People's Republic of Korea, and urged the Democratic People's Republic of Korea to comply fully with its Safeguards Agreement. It also strongly encouraged the Democratic People's Republic of Korea to respond positively and at an early date to the detailed proposal for the first concrete steps needed for the implementation of the generic requirements for the

verification of the correctness and completeness of the Democratic People's Republic of Korea's initial declaration.

I should be grateful if you would bring this letter and its enclosures to the attention of the Security Council, to which I will continue to report developments.

(*Signed*) Mohamed **ElBaradei**

Enclosure I

International Atomic Energy Agency
GENERAL CONFERENCE

GC(45)/26
6 August 2001

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Original: ENGLISH

Forty-fifth regular session of the General Conference
Item 21of the provisional agenda
(GC(45)/1)

IMPLEMENTATION OF THE AGREEMENT BETWEEN THE AGENCY AND THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA FOR THE APPLICATION OF SAFEGUARDS IN CONNECTION WITH THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS

Report by the Director General to the General Conference

1. In resolution GC(44)/RES/26 of 22 September 2000, the General Conference, inter alia, decided to include in the agenda for its forty-fifth regular session an item entitled:

> "Implementation of the Agreement between the Agency and the Democratic People's Republic of Korea for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear weapons."

This report provides information to the General Conference in its consideration of this agenda item.

THE SITUATION PREVAILING AT THE TIME OF THE FORTY-FOURTH REGULAR SESSION OF THE GENERAL CONFERENCE

2. The Director General's report (GC(44)/16 of 04 August 2000) to the General Conference in 2000, noted that the Agency was continuing to monitor the freeze on the DPRK's graphite-moderated reactors and related facilities. In April 2000, the US and the DPRK team had completed the canning of the fuel rods, which could be retrieved from the spent fuel pond of the 5MWe Experimental Reactor. Nevertheless, co-operation efforts from the DPRK had remained limited. Although two further rounds of technical discussions with the DPRK had resolved some day-to-day problems, no progress had been made on a number of important issues, which had remained outstanding since the Agency had started to monitor the freeze in November 1994. Such issues included the preservation of information required for verifying the accuracy and completeness of the DPRK's initial declaration under its safeguards agreement (INFCIRC/403); the DPRK's refusal to accept certain safeguards measures at its reprocessing plant; and, the limitations imposed on inspectors' access to

technical support buildings at facilities subject to the freeze. Furthermore, the DPRK had not permitted the Agency to measure the total amount of plutonium contained in the spent fuel rods from the 5MWe reactor. In his report, the Director General also noted that no agreement had been reached on any of these outstanding issues, and he expressed particular concern with regard to the preservation of all information required for the verification of the DPRK's initial declaration. In this context, the report of the Director General mentioned that in case of a country with significant nuclear facilities, the verification process could take a number of years to complete. Furthermore, the report made clear that, as foreseen in the "Agreed Framework" between the DPRK and the United States of October 1994, the DPRK must come into full compliance with its safeguards agreement when a significant portion of the LWR project would be completed, but before the delivery of the key components. This would of course require that the DPRK co-operate with the Agency to allow verification of the correctness and completeness of the DPRK's initial declaration. In his report, the Director General also noted that pursuant to the "Agreed Framework", construction work on the LWR project started in February 2000. In light of these developments, the Director General reiterated again the wish of the Secretariat for progress concerning the outstanding issues.

3. Pursuant to the Director General's report in document GC(44)/16, the General Conference adopted resolution GC(44)/RES/26. This resolution noted with continuing concern that although the DPRK remains a party to the NPT, the Agency continues to be unable to verify the correctness and completeness of the initial declaration of nuclear material made by the DPRK and is therefore unable to conclude that there has been no diversion of nuclear material in the DPRK. It also urged the DPRK to come into full compliance with its safeguards agreement with the Agency, to co-operate fully and promptly with the Agency in the implementation of the safeguards agreement, and to take all steps that the Agency may deem necessary to preserve all information relevant to verifying the accuracy and completeness of the DPRK's initial report on the inventory of nuclear material subject to safeguards until the DPRK comes into full compliance with its safeguards agreement.

DEVELOPMENTS SINCE THE FORTY- FOURTH REGULAR SESSION OF THE GENERAL CONFERENCE

4. Since last year's General Conference, the Agency has continued to maintain a continuous inspector presence in the DPRK to monitor the freeze and has also been focusing on the preparatory work related to the verification of the correctness and completeness of the DPRK's initial declaration. Two further rounds of discussions have taken place in Vienna from 6 to 9 November 2000, and in the DPRK from 23 to 25 May 2001. There have been no major developments that would necessitate modifying the assessments, which the Director General gave to the Board of Governors in December 2000, March 2001, and June 2001. The Agency is still unable to verify the correctness and completeness of the initial report of nuclear material made by the Democratic People's Republic of Korea (DPRK).

5. During the two rounds of technical discussions referred to above, the DPRK agreed to the resolution of some day-to-day problems. For example, the repackaging of slags and ashes containing uranium for long-term safe storage at the fuel rod fabrication plant has been completed. The DPRK has also provided access for Agency inspectors to certain technical buildings at facilities subject to the freeze, an activity that had been pending for a long time. In addition, with regard to the issue of preservation of information for verification of the

DPRK's initial declaration, the Agency inspectors have been shown some technical records kept at facilities subject and not subject to the freeze. A request that the records be placed under Agency seal has so far been rejected by the DPRK. The Agency reiterated to the DPRK its requirements regarding the preservation of information and action now rests with the DPRK. In addition, the DPRK has continued to restrict the implementation of important safeguards measures, e.g. at the reprocessing plant.

6. At the technical discussions held in May 2001, the Agency presented a detailed proposal for the verification of the correctness and completeness of the DPRK's initial declaration with respect to the Isotope Production Laboratory (IPL) and the verification of plutonium in spent fuel stored in canisters at the 5MWe reactor facility. These constitute the first concrete steps that need to be taken in the implementation of the generic requirements for the verification of the correctness and completeness of the DPRK's initial declaration which had been presented during the technical meetings in November 1999 and May 2000. The Agency hopes that it will be soon able to begin implementing these first steps and anticipates that completing of this task should take up to one year. It may be recalled that at the December 2000 Board Meeting, the Director General indicated "that the work required to verify that all nuclear materials subject to safeguards in the DPRK have been declared to the Agency and placed under safeguards will take 3-4 years, and will require full co-operation on the part of the DPRK".

7. During the technical discussions the Secretariat has stated its readiness to start this work without delay so as to be able to verify compliance by the DPRK with its safeguards agreement at an early date.

Enclosure II

International Atomic Energy Agency
GENERAL CONFERENCE

GC(45)/RES/16
September 2001

GENERAL Distr.
ENGLISH

Forty-fifth regular session
Item 21 of the agenda
(GC(45)/28)

IMPLEMENTATION OF THE NPT SAFEGUARDS AGREEMENT BETWEEN THE AGENCY AND THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

Resolution adopted on 21 September 2001 during the ninth plenary meeting

The General Conference,

(a) Recalling the Board of Governors' resolutions GOV/2636, GOV/2639, GOV/2645, GOV/2692, GOV/2711 and GOV/2742 and General Conference resolutions GC(XXXVII)/RES/624, GC(XXXVIII)/RES/16, GC(39)/RES/3, GC(40)/RES/4, GC(41)/RES/22, GC(42)/RES/2, GC(43)/RES/3 and GC(44)/RES/26,

(b) Noting with concern the lack of substantive progress reflected in the Director General's report contained in document GC(45)/26 and his introductory statement of 10 September 2001 to the Board of Governors, while recognizing the resolution of some day-to-day problems,

(c) Recalling further resolution 825 (1993) adopted by the Security Council of the United Nations on 11 May 1993 and 31 March 1994, 30 May 1994 and 4 November 1994 statements by the President of the United Nations Security Council, particularly the request to take all steps the Agency deems necessary to verify full compliance by the Democratic People's Republic of Korea (DPRK) with its safeguards agreement with the Agency,

(d) Noting that the DPRK is a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and reaffirming that the IAEA-DPRK safeguards agreement (INFCIRC/403) under the NPT remains binding and in force,

(e) Noting also the stated intention of the DPRK to come into full compliance with the safeguards agreement and the continuing IAEA-DPRK discussions on outstanding safeguards issues,

(f) Noting with regret that in these discussions no substantive progress has been made on important issues including the preservation of information and that the DPRK has continued to restrict the implementation of important safeguard measures,

(g) Noting that additional factors, as described in the Director General's report contained in document GC(44)/16 and in his introductory statement of December 2000 to the Board of Governors, further underline the need for full and timely co-operation by the DPRK with the Agency in regard to the verification of the completeness and correctness of the DPRK's initial declaration,

(h) Regretting the withdrawal of the DPRK from the Agency, welcoming the DPRK's participation in recent events involving the Agency and expressing the hope that such participation will eventually lead the DPRK to rejoin the Agency,

(i) Welcoming the presentation by the Agency of a detailed proposal for the first concrete steps needed for the implementation of the generic requirements for the verification of the correctness and completeness of the DPRK's initial declaration and further welcoming the Secretariat's stated readiness to begin this work without delay, and

(j) Noting recent political developments in north-east Asia and expressing the hope that they will open the way to progress towards full implementation of the relevant agreements,

1. Strongly endorses actions taken by the Board of Governors and commends the Director General and the Secretariat for their impartial efforts to implement the IAEA-DPRK safeguards agreement;

2. Recognizes the important role of the IAEA in monitoring the freeze of nuclear facilities in the DPRK and commends the Secretariat for its continuous efforts to monitor the freeze of specified facilities in the DPRK as requested by the United Nations Security Council;

3. Notes with continuing concern that, although the DPRK is a party to the NPT, the Agency continues to be unable to verify the correctness and completeness of the initial declaration of nuclear material made by the DPRK and is therefore unable to conclude that there has been no diversion of nuclear material in the DPRK;

4. Expresses deep concern over the continuing non-compliance of the DPRK with the IAEA-DPRK safeguards agreement;

5. Urges again the DPRK to comply fully with its safeguards agreement, including all steps the Agency deems necessary to preserve all information relevant to verifying the correctness and completeness of the DPRK's initial declaration;

6. Encourages strongly the DPRK to respond positively and at an early date to the Agency's detailed proposal for the first concrete steps needed for the implementation of the generic requirements for the verification of the correctness and completeness of the DPRK's initial declaration; and

7. Decides to remain seized of this matter and include in the agenda for its forty-sixth regular session an item entitled "Implementation of the NPT safeguards agreement between the Agency and the Democratic People's Republic of Korea".